IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 40 OF 2005

Jasmine Dev Nisar nee Dehia .. Petitioner

Vs.

The State of Maharashtra & anr. .. Respondents

Mr. V.V. Khemka h/f Merlyn Monteiro for petitioner.
Ms. Geeta Mulekar, AGP for Respondent No.1.
Ms. Gauri Godse for Respondent No.2.

CORAM: B.H. MARLAPALLE, J.

Date : July 19, 2005.

P.C.:

1. Being aggrieved by the order dated 9/2/2005 passed by the learned Joint Civil Judge, Senior Division, Thane dismissing the application at Exh.14 in Marriage Petition No.340 of 2004, the wife has filed this revision application. In her application under Section 9A of C.P.C. she raised the preliminary issue of territorial jurisdiction for entertaining Marriage Petition No.340 of 2004 which has been filed for annulment of the marriage between the parties. It was contended that none of the sub clauses of Section 19 of the Hindu Marriage Act, 1955 was applicable to

the petition moved by the husband as both the spouses last resided together in the United State of America and just because they had stayed for one night at Ambernath, while at function, could not vest territorial jurisdiction with the court at Thane. The marriage between the parties was performed at Chembur and at the most the Family Court at Bandra may have the territorial jurisdiction, as per the wife. She further stated that she was residing in the USA much prior to the date the petition was moved by the husband and, therefore, the said petition was not maintainable.

2. The husband filed reply to this application and opposed the same by stating that after the marriage the couple had stayed at their matrimonial home at Thane and they had left for USA for a temporary job. He returned to India and was intending to settle at Thane. When the petition was moved, he was residing at Thane. The learned Judge of the lower Court considered the averments made in the application at Exh.14 and the say filed by the husband at Exh.20

and also considered the provisions of Sections 9 and 20 of C.P.C. It had noted that the marriage was solemnised at Chembur and thereafter the couple stayed at matrimonial home at Thane and before they left for USA they had resided and cohabited in the matrimonial home at Thane. The husband had pointed out that in January 2000 he had gone to USA for further education and subsequently obtained temporary work. He came back to Thane in May 2002 and was married to the respondent, the present applicant, on 7/6/2002 at Chembur. On 8/6/2002 they went to the matrimonial home at Thane and stayed there till 15/6/2002. After a short visit to Goa, they returned to the matrimonial home to Thane. The wife received her driving license from Thane and also opened bank account at Thane after getting her visa. The Gazette Notification regarding change of her name was also published as per the Thane address and her name also came to be entered into ration card at the address of the matrimonial home. From 3/12/2003 to about 20//3/2003 both of them stayed at the matrimonial home at Thane and when he filed the petition before the court below for annulment of marriage, he was residing at Thane. As per the wife’s

own contention, when the application was filed she was beyond the territorial boundaries of India. If that be so, Clause (iv) of Section 19 of the Hindu Marriage Act, 1955 would be applicable and the court at Thane would have the territorial jurisdiction to entertain the petition filed by the husband under the said Act.

3. Hence, the view taken by the court below does not suffer from any error apparent on the face of the record and, therefore, the challenge to the said order must fail.

4. The Civil Revision Application is hereby rejected summarily.

(B.H. Marlapalle,J.)